



## Details of Assessment of Pending Regulations Department of Pesticide Regulation December 24, 2003

**Ground Water Protection (OAL File No. 03-1016-01S):** The proposed regulations, based on ten years of monitoring data, would prevent contamination before it occurs by identifying vulnerable areas. This change moves from a program that takes action only after pesticides have been found in ground water, to a program that prevents movement of pesticides to ground water, and minimizes continuing movement in areas already contaminated. This action significantly expands areas of the state now regulated for ground water contamination. **STATUS:** On October 16, 2003, the Department of Pesticide Regulation (DPR) filed a final rulemaking package with the Office of Administrative Law (OAL) for review. On November 25, 2003, DPR withdrew the rulemaking file from OAL pursuant to Executive Order S-2-03.

- The proposed regulations should not have any significant impact on the ability of California businesses to compete with businesses in other states, since the growers potentially affected have substitutes available. Any increase in costs will be minor, relative to normal market fluctuations.
- DPR has made a determination that the adoption of this regulation may have a significant adverse economic impact on directly affected businesses. However, flexibility was built into the proposal to ensure ground water is protected. DPR made this determination based upon an economic impact assessment performed by the California Environmental Protection Agency's Agency-Wide Economic Analysis Unit. Businesses may be impacted if they conduct vegetation management programs using section 6800(a)-listed chemicals in areas that are designated as Ground Water Protection Areas (GWPA's), in artificial recharge basins, or inside canal and ditch banks. Applications of section 6800(a)-listed chemicals will be prohibited in GWPA's if certain criteria designed to prevent pesticide leaching and runoff cannot be met. In the artificial recharge basins and inside canal and ditch banks, applications will be prohibited below the high water line unless the criteria specified in proposed sections 6487.1 and 6487.2, respectively, are met. Therefore, alternative pesticides and/or revised weed management practices may be needed in some situations.

The peak annual cost, about \$5.1 million is expected to occur in the first year of the regulation, with recurrent annual cost impacts of about \$4 million in subsequent years. Some of the provisions of the proposal, particularly those provisions related to canal and ditch bank mitigation measures and recharge area mitigation, could not be assessed for potential costs. However, the costs related to alternative practices in these areas are expected to be minor.



The economic impact to the agricultural sector is expected to occur primarily in citrus and grape crops. Although the combined impacts of the runoff and leaching GWPA's will occur on less than six percent of the irrigated agricultural acreage, the costs will be incurred on 71 percent of the orange acreage; 21 percent of the grape acreage; 50 percent of the peach acreage; 44 percent of the olive acreage; and to a lesser extent, on approximately 20 additional crops. The combined costs expected to be incurred on the orange and grape crops represent approximately two-thirds of the total cost of the proposed regulation.

Growers who farm crops within the designated areas can expect to see minor increases in operating costs that will result in reductions of gross revenues. This level of reduction in gross revenue is not expected to result in noticeable shifts in crop selection. However, the impact may be sufficiently large to cause a few growers to alter their crop selection over a period of several years.

Overall, DPR believes the proposed regulatory action will be less prescriptive to the regulated public than the current system of pest management zones since the use of all section 6800(a)-listed chemicals will be allowed in GWPA's if certain criteria can be met.

- DPR has made an initial determination that the adoption of this regulation will have a significant cost impact on representative private persons or businesses in some cases. DPR staff and the California Environmental Protection Agency have prepared cost estimates expected to result from the implementation of the proposed regulatory action.

Affected private persons and small businesses may include land owners, farming operations, and pest control businesses that wish to use 6800(a)-listed chemicals in GWPA's; pest control dealers who may be subject to reduced sales of pesticides containing these chemicals; and pest control advisers. Many water system applicators, such as local irrigation districts, would not face additional costs resulting from the adoption of proposed section 6487.2 (Inside Canal and Ditch Banks) because they could either switch to postemergent chemicals not listed in section 6800(a), apply listed chemicals above the high water line, or document that the percolation rate of the canal or ditch is sufficiently low to preclude the movement of the applied pesticide.

The economic impact assessment contains estimated compliance costs, including tables, for the requirements of the proposed regulation. The reader can refer to this report for a thorough discussion of these costs.

As a brief summary, the growers of oranges will experience the most significant impact of the proposed regulation since 70 percent of the statewide orange acreage is expected to fall within either a runoff or leaching GWPA. The estimated cost of compliance for these farms is approximately \$11 per acre. In cases where the irrigation water is supplied by on-site wells, there is a possibility that some additional costs will be incurred to provide wellhead protection. This cost has been estimated to be about \$130 per well, initially, and \$25 per well

annually after the first year. Finally, there is a per-farm permitting cost of \$39 that is incurred as a result of the permitting process.

**Civil Penalties by Commissioners (OAL File No. 03-1016-02):** Assembly Bill 947 (Chapter 457, Statutes of 2002) authorized the increase of civil penalty actions by county agricultural commissioners to not more than \$5,000 for each violation determined to be a serious violation. The proposed action amends the regulations currently covering civil penalty actions by county agricultural commissioners. **STATUS:** The proposed regulatory action was noticed in the California Regulatory Notice Register on October 31, 2003. The public comment period closed on December 15, 2003.

- DPR has made a determination that adoption of this regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.
- The adoption of this regulation will not have a significant cost impact on representative private persons or businesses. This regulatory action will have no impact on lawful operations of persons involved with pesticides, such as pesticide users, pest control businesses, restricted materials permittees, pesticide applicators, pest control advisers, or pesticide dealers. Fines are incurred only for violations of the Food and Agricultural Code and Title 3, California Code of Regulations.

**Propanil (OAL File No. Z03-0224-01):** This proposal amends section 6462 to place restrictions on air and ground applications; allow the county agricultural commissioners the option of approving ground applications at sites less than a one-mile distance and sites less than a ½-mile distance under certain conditions; and remove reference to grape vineyards, pistachios, and cotton plantings as sensitive crops when propanil is used in Butte, Colusa, Glenn, Placer, and Yuba counties; the portion of Sutter County situated north of Sankey Road; and the portion of Yolo County situated north of State Highway 16. This proposed action was noticed in the California Regulatory Notice Register on March 7, 2003. **STATUS:** The final rulemaking package is being prepared.

- DPR has made a determination that adoption of this regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.
- This regulation would not have a significant cost impact on representative private persons or businesses. The regulations should result in both reduced use of alternative pesticide chemicals that are more expensive and less effective, and increased crop yields due to use of the more effective herbicide, propanil. For rice growers in the seven-county area, this will result in some undetermined cost savings. Some pest control advisers working as consultants who specialize in tree crops, will experience a slight increase in time required to monitor and inspect orchards that are near rice fields. The related cost is difficult to estimate, but is not expected to be significant.